IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/036,304 Confirmation No.: 2753
Applicant(s): Burnhouse et al.
Filed: 12/28/2001
Art Unit: 2682
Examiner: Milord, Marceau
Title: Data Transfer Rate Display Selection

Attorney Docket No.: 871.0103.U1 (US)
Customer No.: 29,683

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Response To Office Action

Sir:

This is in response to the Office Action mailed 12/01/2005 in regard to the above-identified patent application. Claims 1-21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Walsh (US 6,144,848) in view of Mager (US 6,643,371). The examiner is requested to reconsider this rejection.

The cited art does not disclose or suggest a system for switching between displaying the transfer rate in an alphanumeric mode and a graphics mode.

It appears that the examiner does not understand what a "data transfer rate" is. A data transfer rate is the rate or speed at which data is transferred. For example, a modem is used to transfer data between two devices. The rate of transfer of the data is a data transfer rate, such as shown in Fig. 3B which shows data transfer rates in an alphanumeric mode (145 kbps and 28 kbps; (kbps=kilobits-per-second).

The examiner stated:

> "Walsh et al discloses a system (figs. 1-3) for displaying data transfer rates on a display comprising: a system for displaying the transfer rates in an alphanumeric mode or an alternative graphics mode (col. 3, line 40- col. 4, line 8; col. 17, line 5- col. 18, line 41; col. 4, lines 10-47; col. 17, line 5- col. 18, line 41; col. 35, line 21- col. 36, line 26).

The examiner has made an error. Applicants' attorney has reviewed Walsh in detail. Walsh does not disclose a system for displaying the transfer rates in an alphanumeric mode or an alternative graphics mode. Walsh appears to be silent regarding how, or even if, a data transfer rate is displayed. Walsh appears to be silent regarding how, or even if, a data transfer speed is displayed. Please note, claim 1 is in regard to display of a data transfer rate; not merely a data transfer. For example, Fig. 3A of the present patent application shows data transfer rates in a graphics mode (the right and left arrows being full or not) and Fig. 3B shows data transfer rates in an alphanumeric mode (145 kbps and 28 kbps; (kbps=kilobits-per-second)). Walsh appears to be silent regarding how, or even if, a data transfer rate is displayed.

As the examiner admitted, Walsh et al. does not disclose a system for switching between displaying the transfer rates in an alphanumeric mode and a graphics mode.

The examiner is directed to Figs. 3A and 3B of applicants' patent application. Fig. 3A shows an example of a graphics mode of displaying a data transfer rate. Figs. 3B shows an example of an alphanumeric mode of displaying a data transfer rate. Fig. 5 shows an example of how a user can use the menu

of the device to select or switch between showing the transfer rate as either the alphanumeric mode or the graphics mode. The cited art, alone or in combination, is not remotely close to applicants' claimed invention.

In mentioning Mager, the examiner does not indicate that this reference discloses or suggests a system for switching between displaying data transfer rates in an alphanumeric mode or a graphics mode. There is no disclosure or suggestion in Mager of a system for switching between displaying a data transfer rate in an alphanumeric mode or a graphics mode. Any statement to the contrary is simply incorrect. Mager adds nothing to the deficiencies of Walsh. Mager appears to be silent regarding how, or even if, a **data transfer rate** is displayed. Mager appears to be silent regarding how, or even if, a **data transfer speed** is displayed.

The examiner stated that it would have been obvious to apply the technique of Mager to the communication system of Walsh in order to provide a cellular telephone that includes a keypad where the keypad provides a graphic display of the letters and numeric digits that are assigned to the key. Assuming the examiner is correct, this still does not suggest the invention claimed in claim 1. It appears that the examiner does not understand what a data transfer rate is. A data transfer rate is the rate at which data is transferred. This has nothing to do with the user interface key input selection in Mager. The examiner's rational for rejecting claim 1 based upon Walsh et al. and Mager simply does not make sense. A persons skilled in the art, having both Walsh et al. and Mager in front of him would not envision the invention claimed in claim 1. Walsh et

al. and Mager are void of a disclosure or suggestion of the features recited in claim 1. The examiner is requested to reconsider the rejection of claim 1.

Though dependent claims 2-7 contain their own allowable subject matter, these claims should at least be allowable due to their dependence from allowable claim 1. However, to expedite prosecution at this time, no further comment will be made.

Regarding independent claim 8, Walsh et al. and Mager do not disclose or suggest means for displaying a data transfer rate of data with the transceiver on the display in an alphanumeric format. The examiner mentions column 33, lines 10-25 and column 31, lines 16-37 of Walsh et al. However, these sections of Walsh et al. do not disclose or suggest means for displaying a data transfer rate of data with the transceiver on the display in an alphanumeric format. The section at column 33, lines 10-25 merely describes an informational message sent by a host server to a user device (in response to a command message and with use of a program application) and presented to an operator on a display screen. This is not a disclosure or suggestion of means for displaying a data transfer rate of data with the transceiver on the display in an alphanumeric format. The section at column 31, lines 16-37 merely describes a connect-prompt message (such as an audible signal) sent to the user device 120 from the host server 110, and a command message sent from the user device 120 to the host server 110 with one or more sets of identifying information. There is no disclosure or suggestion of displaying a rate of data transfer on a display. Column 33,

lines 10-25 and column 31, lines 16-37 of Walsh et al. appear to be irrelevant to the invention claimed in claim 8. Mager adds nothing to the deficiencies of Walsh. It is not understood why the examiner is even using Mager in his rejection. Mager appears to be totally unrelated to applicants' claimed invention. The features of claim 8 are not disclosed or suggested in the art of record. Therefore, claim 8 is patentable and should be allowed.

Though dependent claims 9-10 contain their own allowable subject matter, these claims should at least be allowable due to their dependence from allowable claim 8. However, to expedite prosecution at this time, no further comment will be made.

Regarding independent claim 11, Walsh et al. and Mager do not disclose or suggest a system for inactivating display of the data transfer rate on the display while the transceiver is transmitting or receiving the data. The examiner points to the following sections of Walsh as a disclosure that the controller in Walsh is adapted to display on the display a data transfer rate of data by the transceiver:

- Column 33, lines 10-25;
- Column 31, lines 16-37;
- Column 4, lines 10-47;
- Column 17, line 5 - column 18, line 41; and
- Column 35, line 21 - column 36, line 26.

However, a careful review of these sections of Walsh do not appear to disclose or suggest a controller adapted to display on the display a data transfer rate of data by the transceiver; and a system for inactivating display of the data transfer rate on the display while the transceiver is transmitting or receiving the data as recited in claim 11. Mager adds nothing to the deficiencies of Walsh et al. It is not understood why the examiner is even using Mager in his rejection. Mager appears to be totally unrelated to applicants' claimed invention.

Though dependent claims 12-16 contain their own allowable subject matter, these claims should at least be allowable due to their dependence from allowable claim 11. However, to expedite prosecution at this time, no further comment will be made.

Regarding independent claim 17, Walsh et al. and Mager do not disclose or suggest selecting, by a user, a data transfer rate display mode from a plurality of data transfer rate display modes. Again, the examiner relies on the following sections of Walsh:

- Column 3, line 40 - column 4, line 8;
- Column 17, line 5 - column 18, line 41;
- Column 4, lines 10-47;
- Column 17, line 5 - column 18, line 41; and
- Column 35, line 21 - column 36, line 26.

However, a careful review of these sections of Walsh et al. do not appear to disclose or suggest:

> "selecting, by a user, a data transfer rate display mode from a plurality of data transfer rate display modes; and
>
> displaying the data transfer rate on the display based upon the selected data transfer rate display mode"

as recited in the method of claim 17. The addition of Mager adds nothing to the deficiencies of Walsh et al. Mager's user input data entry appears to be irrelevant to applicants' claimed invention. It is not understood why the examiner is even using Mager in his rejection. Mager appears to be totally unrelated to applicants' claimed invention.

Though dependent claims 18-20 contain their own allowable subject matter, these claims should at least be allowable due to their dependence from allowable claim 17. However, to expedite prosecution at this time, no further comment will be made.

Regarding independent claim 21, Walsh et al. and Mager do not disclose or suggest selecting, by a user, to turn a displaying feature of the data transfer rate ON or OFF. The addition of Mager adds nothing to the deficiencies of Walsh et al. Mager's user input, keypad data entry appears to be irrelevant to applicants' claimed invention. It is not understood why the examiner is even using Mager in his rejection. Mager appears to be totally unrelated to applicants' claimed invention.

The addition of Mager in the last office action is no better a reference than the references used in the prior three office actions. Unless the examiner can find better prior art in the next office action, failure to issue an allowance in the next office action will result in filing of an appeal. **Over four years have past since this application has been filed.** Absent a discover of better prior art, the examiner needs to issue a notice of allowance without any further delay.

For all of the foregoing reasons, it is respectfully submitted that all of the claims present in the application are clearly novel and patentable over the prior art of record. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issue remain, the examiner is invited to call applicants' attorney at the telephone number indicated below.

Respectfully submitted,

Mark F. Harrington 2/10/06

Mark F. Harrington (Reg. No. 31,686) Date

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CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Appl. No.: 10/036,304
Reply to Office Action of: 12/01/2005

2-10-06
Date

Ann O'Brentowich
Name of Person Making Deposit